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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 RUSSEL H. DAWSON, Personal
10 Representative of the Estate of Damaris
Rodriguez, et al.,

11 Plaintiffs,

12 v.

13 SOUTH CORRECTIONAL ENTITY
14 (“SCORE”), a Governmental Administrative
Agency, et al.,

15 Defendants.

CASE NO. C19-1987RSM

ORDER DENYING MOTION TO
COMPEL

16 This matter comes before the Court on Plaintiffs’ “Motion to Compel Discovery
17 Related to Falsified Welfare Checks,” filed on April 29, 2021. Dkt. #108. Plaintiffs seek three
18 things: a complete response to their Interrogatory No. 14, an unredacted copy of the “Executive
19 Summary” report, and a second deposition of internal affairs investigator John DiCroce where
20 Defendant SCORE’s attorney-client and work product objections are overruled. *Id.* No party
21 has requested oral argument.

22 SCORE raises a threshold issue, arguing that Plaintiffs have failed to satisfy Local Civil
23 Rule 37’s meet and confer requirement. The parties generally agree as to the timing of their
24 communications. According to Plaintiffs:

1 On April 21, 2021, the parties held their most recent discovery
2 conference via telephone. John Justice was on the call for SCORE
3 and James Anderson and Nathan Bingham were on the call for the
4 Plaintiffs. During this call the parties discussed a number of items,
5 including Interrogatory No. 14. Plaintiffs' counsel agreed to hold
6 off on a motion to compel if SCORE committed to providing the
7 substantive response by the next week. SCORE's counsel indicated
8 that SCORE would substantively respond. On April 27, 2021,
9 SCORE supplemented its interrogatory responses again but in its
10 answer to Interrogatory No. 14, it reasserted its objection and
11 provided no substantive information, whatsoever. Anderson Decl.,
12 ¶16-17.

13 Counsel also conferred extensively on matters related to the
14 executive report and SCORE's privilege objection during the video
15 deposition of Chief DiCrocce, both on and off the record. *See, e.g.*,
16 DiCrocce Dep. at 27:20-28. Present for all or part of that video
17 meeting were witness John DiCrocce, Nathan Bingham (Plaintiffs),
18 Stew Estes (SCORE), John Justice (SCORE), Heidi Mandt
19 (NaphCare), Raam Wong (King County), and a court reporter.
20 Anderson Decl., ¶18.

21 Dkt. #108 at 7. After the April 27 supplemental response to Interrogatory No. 14, Plaintiffs'
22 counsel did not seek to confer again before filing the instant Motion two days later. Dkt. #111
23 ("Justice Decl."), ¶ 7. Other than at the above deposition of Mr. DiCrocce, Plaintiffs counsel has
24 not conferred with SCORE's counsel about obtaining an unredacted copy of the Executive
Summary or taking a second deposition to avoid filing the instant Motion. *Id.* at ¶ 4.

Local Civil Rule 37 states:

Any motion for an order compelling disclosure or discovery must
include a certification, in the motion or in a declaration or
affidavit, that the movant has in good faith conferred or attempted
to confer with the person or party failing to make disclosure or
discovery in an effort to resolve the dispute without court action.
The certification must list the date, manner, and participants to the
conference. If the movant fails to include such a certification, the
court may deny the motion without addressing the merits of the
dispute. A good faith effort to confer with a party or person not
making a disclosure or discovery requires a face-to-face meeting or
a telephone conference.

1 LCR 37(a)(1). It has been stated in this District that a “good faith effort to resolve discovery
2 disputes requires an exchange of information until no additional progress is possible.” *Beasley*
3 *v. State Farm Mut. Auto. Ins. Co.*, 2014 U.S. Dist. LEXIS 41518, 2014 WL 1268709, at *1
4 (W.D. Wash. Mar. 25, 2014).

5 The Court finds Plaintiffs have failed to satisfy LCR 37’s meet and confer requirement.
6 It is insufficient for Plaintiffs to point to a discovery conference *prior* to SCORE
7 supplementing its answer to Interrogatory No. 14. A change to the answer changes the dispute.
8 Likewise, the Court finds that Plaintiffs counsel’s objections and SCORE’s counsel’s few
9 sentences in response during the March, 19, 2021, deposition do not count as a “conference”
10 and are too far removed in time from the filing of the instant Motion to satisfy the rule. All this
11 establishes is that there was a dispute between the parties, not that the parties, in good faith, met
12 and conferred about it in an effort to avoid Court action. Plaintiffs’ vague reference to
13 discussions that occurred “off the record” do not help them satisfy this requirement either.

14 Given the above, this Motion will be denied. However, in the interest of judicial
15 economy, the Court will point out that it would deny this Motion as to Interrogatory No. 14.
16 SCORE provided the following answers:

17 INTERROGATORY NO. 14: Did the welfare checks conducted
18 on Damaris during her incarceration comply with SCORE’s
19 policies? If not, explain why not. The term “welfare checks”
20 includes, but is not limited to, offers of water.

21 ANSWER: Objection, this interrogatory is compound and seeks a
22 legal conclusion and information that is protected attorney work
23 product.

24 SUPPLEMENTAL ANSWER: SCORE is further evaluating your
position on whether it is necessary to supplement this Interrogatory
and I anticipate providing an Answer within 30 days.

SECOND SUPPLEMENTAL ANSWER: Without waiving prior
objections, yes.

1 Dkt. #109-1 at 2. The Court agrees with Defendant SCORE that it has adequately responded to
2 interrogatory 14 with its answer “yes.” See Dkt. #110 at 11 (“[i]f the answer was in the
3 affirmative, no other information was asked.... [i]f the answer was ‘no’, SCORE was asked to
4 explain further.”). This interrogatory does not request further information. There is no basis for
5 the Court to compel a further response to this interrogatory.

6 Having reviewed the relevant briefing and the remainder of the record, the Court hereby
7 finds and ORDERS that Plaintiffs’ Motion to Compel, Dkt. #108, is DENIED. This is the
8 fourth motion to compel that has come before the Court in this case. The Court urges counsel to
9 make every effort to resolve future discovery issues out of Court.

10 DATED this 8th day of June, 2021.

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14 RICARDO S. MARTINEZ
15 CHIEF UNITED STATES DISTRICT JUDGE
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